

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1227 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-15-1.5-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. **(a)** The commission
5 shall meet in rooms provided by the personnel department and assume
6 the duties of office.
7 **(b)** Three (3) members of the commission shall constitute a quorum
8 for the transaction of business, and a majority of votes cast shall be
9 required for the adoption or approval of any official action.
10 **(c)** The commission shall elect one (1) of the members as the
11 chairman and another member as vice chairman and the persons so
12 elected shall hold office for one (1) year and until their successors are
13 elected and qualified.
14 **(d)** The commission shall:
15 **(1)** hold ~~such~~ regular and special meetings each year as it may
16 prescribe by rule or resolution; ~~shall~~
17 **(2)** meet on the call of the chairman; and ~~shall~~
18 **(3)** hold at least one (1) meeting each month.
19 ~~Such clerical and staff assistance as is needed by the commission~~
20 ~~shall be provided through the state director of personnel.~~
21 **(e) To ensure the independence of the commission as required**
22 **by section 8 of this chapter, appropriations to support the**
23 **operations of the commission must be made by separate line item.**
24 SECTION 2. IC 4-15-2-35, AS AMENDED BY P.L.222-2005,
25 SECTION 19, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2006]: Sec. 35. (a) **This section does not apply to a person who is employed as a teacher in a state institution under:**

- (A) IC 11-10-5;
- (B) IC 12-24-3;
- (C) IC 16-33-3;
- (D) IC 16-33-4;
- (E) IC 20-21-2-1; or
- (F) IC 20-22-2-1.

(b) This section does not apply to an employee who has been suspended or terminated by the ethics commission.

~~(b)~~ (c) Any regular employee may file a complaint if the employee's status of employment is involuntarily changed or if the employee deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in the status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within this time period shall render the complaint procedure unavailable to the employee. The following complaint procedure shall be followed:

Step I: The complaint procedure shall be initiated by a discussion of the complaint by the employee and the employee's immediate supervisor and, if a mutually satisfactory settlement has not been made within two (2) consecutive working days, the complaint may be referred to Step II.

Step II: The complaint shall be reduced to writing and presented to the intermediate supervisor. If a mutually satisfactory settlement has not been reached within four (4) consecutive working days, such complaint may then be referred to the appointing authority.

Step III: The appointing authority or the appointing authority's designee shall hold a hearing, if necessary, and conduct whatever investigation the appointing authority or the appointing authority's designee considers necessary to render a decision. The appointing authority or the appointing authority's designee must render a decision in writing not later than ten (10) business days from the date of the hearing, if applicable, or close of the investigation, whichever occurs later.

(d) If the appointing authority or the appointing authority's designee does not find in favor of the employee, the complaint may be submitted within fifteen (15) calendar days to the state personnel director. The director or the director's designee shall review the complaint and render a decision not later than fifteen (15) calendar days after the director or the director's designee receives the complaint. If the decision is not agreeable to the employee, an appeal may be submitted by the employee in writing to the commission not later than fifteen (15)

1 calendar days from the date the employee has been given notice of the
 2 action taken by the personnel director or the director's designee. After
 3 submission of the appeal, the commission shall, prior to rendering its
 4 decision, grant the appealing employee and the appointing authority a
 5 public hearing, with the right to be represented and to present evidence.
 6 With respect to all appeals, the commission shall render its decision
 7 within thirty (30) days after the date of the hearing on the appeal. If the
 8 commission finds that the action against the employee was taken on the
 9 basis of politics, religion, sex, age, race, or because of membership in
 10 an employee organization, the employee shall be reinstated without loss
 11 of pay. In all other cases the appointing authority shall follow the
 12 recommendation of the commission, which may include reinstatement
 13 and payment of salary or wages lost by the employee, which may be
 14 mitigated by any wages the employee earned from other employment
 15 during a dismissed or suspended period.

16 (e) If the recommendation of the commission is not agreeable to the
 17 employee, the employee, within fifteen (15) calendar days from receipt
 18 of the commission recommendation, may elect to submit the complaint
 19 to arbitration. The cost of arbitration shall be shared equally by the
 20 employee and the state of Indiana. The commissioner of labor shall
 21 prepare a list of three (3) impartial individuals trained in labor relations,
 22 and from this list each party shall strike one (1) name. The remaining
 23 arbitrator shall consider the issues which were presented to the
 24 commission and shall afford the parties a public hearing with the right
 25 to be represented and to present evidence. The arbitrator's findings and
 26 recommendations shall be binding on both parties and shall
 27 immediately be instituted by the commission.

28 SECTION 3. IC 4-15-2-35.7 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2006]: **Sec. 35.7. (a) This section applies to a**
 31 **person who is employed as a teacher in a state institution under:**

- 32 (A) IC 11-10-5;
- 33 (B) IC 12-24-3;
- 34 (C) IC 16-33-3;
- 35 (D) IC 16-33-4;
- 36 (E) IC 20-21-2-1; or
- 37 (F) IC 20-22-2-1.

38 (b) Any regular employee may file a complaint if the employee's
 39 status of employment is involuntarily changed or if the employee
 40 considers conditions of employment to be unsatisfactory. However,
 41 the complaint procedure shall be initiated as soon as possible after
 42 the occurrence of the act or condition complained of and in no
 43 event shall be initiated more than thirty (30) calendar days after
 44 the employee is notified of a change in the status of employment or
 45 after an unsatisfactory condition of employment is created or after
 46 the time a violation of a rule or law is discovered. Failure to initiate
 47 the complaint procedure within this time renders the complaint

1 procedure unavailable to the employee. The following complaint
2 procedure shall be followed:

3 Step I: The complaint procedure shall be initiated by a
4 discussion of the complaint by the employee and the
5 employee's immediate supervisor and, if a mutually
6 satisfactory settlement has not been made within two (2)
7 consecutive working days, the complaint may be referred to
8 Step II.

9 Step II: The complaint shall be reduced to writing and
10 presented to the appointing authority. The appointing
11 authority or the appointing authority's designee shall hold a
12 hearing, if necessary, and conduct whatever investigation the
13 appointing authority or the appointing authority's designee
14 considers necessary to render a decision. The appointing
15 authority or the appointing authority's designee must render
16 a decision in writing within ten (10) consecutive working days.

17 Step III: If:

18 (A) a decision has not been made by the appointing
19 authority within ten (10) consecutive working days; or

20 (B) the decision of the appointing authority is not agreeable
21 to the employee;

22 an appeal may be submitted by the employee in writing to the
23 commission not later than fifteen (15) calendar days from the date
24 the employee has been given notice of the action taken by the
25 appointing authority.

26 (c) If an employee elects to submit the appeal to the commission,
27 the commission shall, before rendering its decision, grant the
28 appealing employee and the appointing authority a public hearing,
29 with the right to be represented and to present evidence. With
30 respect to all appeals, the commission shall render its decision
31 within thirty (30) days after the date of the hearing on the appeal.
32 If the commission finds that the action against the employee was
33 taken on the basis of politics, religion, sex, age, or race, or because
34 of membership in an employee organization, the employee shall be
35 reinstated without loss of pay. In all other cases, unless judicial
36 review of the decision is requested in accordance with IC 4-21.5-5,
37 the appointing authority shall follow the decision of the
38 commission, which may include reinstatement and payment of
39 salary or wages lost by the employee, which may be mitigated by
40 any wages the employee earned from other employment during a
41 dismissed or suspended period. An employee may elect to submit
42 the decision of the commission to arbitration on the same basis as
43 any other state employee.

44 (d) If the recommendation of the commission is not agreeable to
45 the employee, the employee, within fifteen (15) calendar days from
46 receipt of the commission recommendation, may elect to submit the

1 complaint to arbitration. The cost of arbitration shall be shared
2 equally by the employee and the state of Indiana. The
3 commissioner of labor shall prepare a list of three (3) impartial
4 individuals trained in labor relations, and from this list each party
5 shall strike one (1) name. The remaining arbitrator shall consider
6 the issues that were presented to the commission and shall afford
7 the parties a public hearing with the right to be represented and to
8 present evidence. The arbitrator's findings and recommendations
9 shall be binding on both parties and shall immediately be instituted
10 by the commission.

11 (e) An employee who files a complaint under subsection (b) may
12 choose a representative who is inside or outside the employee's
13 agency or facility to represent the employee during the procedure
14 described in subsection (b) Steps I through III.

15 (f) If, at a point in the complaint procedure before subsection (b)
16 Step III, the employer does not comply with the timelines set forth
17 in subsection (b) Step I and Step II, the employee's complaint
18 proceeds to the next Step of the complaint procedure."

19 Renumber all SECTIONS consecutively.

(Reference is to HB 1227 as printed January 27, 2006.)

Representative Thompson